

REMARKS

The Examiner's attention to the present application is greatly appreciated.

In the Office Action of May 9, 2006, the Examiner correctly objected to Claims 1 and 8 because there was an inconsistency between the terms "distal" and "proximal" as used in the claims and that of the Specification. More specifically, the Specification used the term "distal" to refer to a location next to or toward the substrate, while the Claims 1 and 8 used the term "distal" to refer to a location away from the substrate. Applicant apologizes for reversing the terms "distal" and "proximal" in Claims 1 and 8. It is believed that these errors have been overcome by reversing these terms in both Claims 1 and 8. Meanwhile, a thorough review of the use of these terms in the remaining claims indicates that the terms were correctly used therein and that the amendment to Claims 1 and 8 should remove this objection.

In the recent Office Action, the Examiner also rejected Claims 1 - 3, 5 - 10 and 12 - 14 under 35 U.S.C. § 102(b) as being anticipated by *Hutter* ('151). Briefly, the Examiner contended that the cylinder's upper threads shown in Figures 21 and 22 do not engage the support member when the cylinder is in a first position, but do engage the support member when the cylinder is in the second position. The Examiner argued that these threads are synonymous with Applicant's "stop". The Examiner's rejection is well taken. However, in light of the explanation that follows, it is respectfully requested that the rejection be withdrawn and that each of the claims be allowed.

Finally, Claims 1 and 11 were objected to as being dependent upon a rejected base claim but were indicated as allowable if rewritten in an independent form to include all of the limitations of the base claims and any intervening claims.

In addition, Applicant has amended the Specification to clarify that the term “telescopically moveable”, is not the same as “rotational and threaded movement”. No new matter is added by this amendment to the Specification. Support for this amendment can be found within each of the Figures directed towards Applicant’s invention which illustrate the inner retainer moving telescopically, in other words sliding axially, within the outer support member, but not moving in a rotational spiral manner as provided by a threaded construction. Further support can be found on page 9, last paragraph and page 11, first paragraph, which illustrate that the preferred embodiments include constructions which move with “coaxial alignment” in other words telescopic movement.

Reexamination, reconsideration and allowance of the claims is requested in light of the above amendments in combination with the comments that follow.

SUMMARY OF TELEPHONE INTERVIEW

On September 12, 2006, a telephone interview was held between the undersigned and Examiner Thomas. During this interview, the conversation seemed to suggest that the prior does not suggest Applicant's construction. However, there was substantial discussion as to whether the claims as written sufficiently differentiated Applicant's invention from the prior art.

More particularly, the parties discussed the *Hutter* '151 Patent, and that Figures 21 and 22 illustrate an embodiment where threads formed on cylinder 75 do not engage the outer support member when in a first position, but do engage the support member when the cylinder is in a second position. In reply, Applicant pointed out that: (1) the inner cylinder 75 shown in *Hutter* does not move "telescopically" as claimed by Applicant, and (2) that the threads still engage the support member when in both positions because the threads spiral down the cylinder's body.

In reply, the Examiner pointed out that if the inner cylinder were completely disengaged from the support member, then the thread would not engage the support member. After agreeing with this conclusion, Applicant and the Examiner attempted to *brainstorm* as to how to best draft an allowable claim. There was discussion regarding limiting the outer support member and inner retainer to include a rectangular shape which is not suggested in *Hutter*. In addition, there was discussion as to whether the inclusion of the word "telescopic" within Applicant's independent claims sufficiently differentiated Applicant's claimed invention from that of *Hutter*. More specifically, Applicant's fixture and fastener combination includes an inner retainer which moves telescopically within the outer support member. In contrast, the construction illustrated in

Figures 21 and 22 includes an inner retainer which moves spirally in accordance with a threaded construction.

At the conclusion of the telephone interview, Applicant agreed to submit an argument explaining that the claim language of the inner retainer being “telescopically moveable” within the outer support’s central bore was not suggested in the *Hutter* Patent.

In accordance with this discussion, this explanation is set forth as follows.

REJECTION UNDER 35 U.S.C. § 102

Claims 1 - 3, 5 - 10 and 12 - 14 were rejected under 35 U.S.C. § 102 as being anticipated by *Hutter*. More specifically, the Examiner indicated that the fixture included a support member, an inner retainer as well as a stop. More specifically, the Examiner contended that the top threads of the cylinder 75 in Figure 22 may be considered a stop which does not engage the support member when the cylinder is in a first position, but does engage the support member when the cylinder is in a second position.

Respectfully, Applicant contends that *Hutter* does not describe Applicant’s claimed invention for several reasons. First, if the threads could be interpreted so broadly as to function as a stop, the threads do not prevent further movement of the inner retainer relative to the outer support member so as to prevent excessive force and movement by the fastener against the substrate. In other words, the inner retainer illustrated in *Hutter* could be rotated until excessive

adhesive seeps from between the fastener and the substrate. Conversely, each of Applicant's claims include the limitation that the stops "prevent excessive force and movement by said fastener against the substrate to prevent excess adhesive from seeping from between said fastener's flat proximal extremity and said substrate." Thus, though a very broad interpretation of the word "stop" may encompass threads, the threads disclosed in *Hutter* do not suggest a construction claimed by Applicant.

Furthermore, the constructions illustrated in Figures 21 and 22 of *Hutter* do not suggest "said inner retainer telescopically moveable within said outer support's central bore". As understood by those skilled in the art, the word "telescopic" is defined as follows.

tele.scop.ic "Consisting of parts that slide one within another like the tubes of a jointed telescope and are thus capable of being extended or shortened."

Dictionary.com Unabridged

"Extensible or compressible by or as if by the sliding of overlapping sections."

American Heritage Dictionary

“Having parts that slide one within another; “a telescopic antenna”; “a telescopic drinking cup”

WordNet2.0, 2003 Princeton University

It is thus clear that the term “telescopic” is understood to move slidably in the form of a traditional telescope, but not spirally as provided by threaded fasteners such as illustrated in Figures 21 and 22 of *Hutter*.

Moreover, if there is any question that the term “telescopic” is to be interpreted in the manner sought by Applicant, Applicant has amended the Specification to clarify that “telescopically moveable” does not include “rotational and spiral threaded movement”. As indicated above, support for this amendment can be found throughout the Specification and within the drawings. Moreover, as MPEP § 2111.01 (III) makes clear, the “applicant is entitled to be his or her own lexicographer”. In this case, Applicant does not intend to rebut the presumption that the claim term “telescopic” is to be given its ordinary and customary meaning. Instead, Applicant intends to clarify that the term “telescopic” has a plain meaning of slidable movement, as opposed to a rotational and spiral threaded movement.

Each of Applicant’s independent claims include the limitation wherein the inner retainer is telescopically movable within the outer support’s central bore and that the fixture includes stops which restrict telescopic movement when the inner retainer is moved to a second position

to prevent excessive force and movement by the fastener against the substrate. Because the prior art does not disclose or suggest this construction, each and every one of the claims are believed allowable.

CONCLUSION

In light of the amendments and clarifying remarks, the claims are believed to be in condition for allowance and notice thereof is respectfully solicited. If there are any remaining issues that need to be resolved, it is respectfully requested that a telephone call be placed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David G. Duckworth". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David G. Duckworth
Registration No. 39,516
Attorney for Applicant
Telephone: (949) 724-1255